FILED
MAR 9 1981
ALEXANDER L. STEVAS,
CLERK

No. 80-1368

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1980

STATE OF MISSOURI,
Petitioner,

v.

WILLIAM BROWN,
Respondent.

STATE OF MISSOURI,
Petitioner,
vs.
DONNIE L. COLLINS,
Respondent.

STATE OF MISSOURI,
Petitioner,
vs.
HAROLD HAWKINS,
Respondent.

STATE OF MISSOURI,
Petitioner,
vs.
EDDIE L. GREER,
Respondent.

STATE OF MISSOURI,
Petitioner,
vs.
JACKIE MARTIN,
Respondent.

On petition for writ of certiorari to the Missouri Court of Appeals, Western District.

MEMORANDUM OPPOSING CERTIORARI

This Court, as admitted in footnote 2 of page 10 of this instant petition, has twice denied Petitioner's petition for writ of certiorari, in the State's continuing attempt to have this Court examine alleged double jeopardy questions of the Fifth Amendment to the United States Constitution. Petitioner, in its petition denied by this Court approximately five weeks ago, in Missouri v. Sours, _____U.S. _____, No. 80-571 (January 26, 1981), raised four questions which are virtually identical to the four questions again advanced in the instant petition.

The State of Missouri presumes in footnote 2 of page 10 of its petition, without basis, that Missouri v. Sours, _____U.S. _____, No. 80-571 (January 26, 1981), that its most recent petition for writ of certiorari was denied because the respondent had fully served his sentences for armed criminal actions and the underlying felony rendering the questions advanced moot. This Court does not consider a

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criminal case moot if there is any possibility that collateral legal consequences will result from the conviction, Sibron v. State of New York, 392 U.S. 40,88 S.Ct. 1889, 20 L.Ed.2d 917 (1968). Collateral legal consequences, stemming from a conviction, do attach in Missouri and in Missouri a conviction for a criminal offense may be admitted to impeach credibility, Section 491.050 R.S.Mo. 1978, and a Court may sentence a person to an extended term of imprisonment if he has previously been convicted of a certain number and type of crime, Section 558.016 R.S.Mo. 1978.

Only two Justices of this Court voted to dismiss the petition in Missouri v. Sours, _____U.S. _____, No. 80-571 (January 26, 1981), as moot and such action, considered in association with this Court's view of the question of "mootness" in a criminal case, establishes the conclusion that the Court's previous denial in the cited case was not because of mootness.

This Court, having previously twice denied the State's petition for writ of certiorari and again being asked to consider identical questions previously presented and denied, should deny the writ of certiorari.

Respectfully submitted,

SIMMONS AND MORRIS, P.C.

By _____

Stanley L. Morris (Counsel of Record)
Mo. Bar Enrollment No. 21401
403 Plaza Center Building
800 West 47th Street
Kansas City, Missouri 64112
816 531-3100

Attorneys for Respondent
William Brown.

CERTIFICATE OF MAILING

I hereby certify that one copy of the foregoing Memorandum Opposing Certiorari has been deposited in the U.S. Mail, first class postage prepaid, on this 5 day of March, 1981, to: Philip M. Koppe, Assistant Attorney General, 615 E. 13th Street, Kansas City, Missouri 64106; and to: Gary L. Gardner and James W. Fletcher, 1308 Locust, Suite 202, Kansas City, Missouri 64106.

_____
Attorneys for Respondent
William Brown

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AFFIDAVIT IN SUPPORT OF
MOTION TO PROCEED IN FORMA PAUPERIS

I, William Brown, being first duly sworn, depose and say that I am a respondent in the above-entitled case; that in support of my motion for leave to proceed in forma pauperis, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe the State of Missouri is not entitled to redress; and that I desire to oppose the issues raised by the State in its petition for writ of certiorari.

I further swear that the responses which I have made to the questions and instructions below relating to my ability to pay the cost of prosecuting the appeal are true.

1. Are you presently employed?

   a. If the answer is yes, state the amount of your salary or wages per month and give the name and address of your employer.

   b. If the answer is no, state the date of your last employment and the amount of salary and wages per month which you received.

Answer:

a. 1978, $800.00 a month.

2. Have you received within the past twelve months, any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, or other source?

   a. If the answer is yes, describe each source of income, and state the amount received from each during the past twelve months.

Answer:

N/A

3. Do you own any cash or checking or savings account?

   a. If the answer is yes, state the total value of the items owned.

Answer:

N/A

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?

   a. If the answer is yes, describe the property and state its approximate value.

Answer:

N/A

5. List the persons who are dependent upon you for support and state your relationship to those persons.

Answer:

N/A

I understand that a false statement or answer to any questions in this affidavit will subject me to penalties for perjury.

William Brown
WILLIAM BROWN

Subscribed and sworn to before me this ____ day of MAR 16 1981, 1981.

Oscar D Dunbar
NOTARY PUBLIC

My Commission Expires:

OSCAR D. DUNBAR
Notary Public, State of Missouri
My Commission Expires August 1, 1984

CERTIFICATE OF MAILING

I hereby certify that one copy of the foregoing Affidavit in Support of Motion to Proceed in Forma Pauperis has been deposited in the United States Mail, first class postage prepaid, this 16 day of March, 1981, to:

Philip M. Koppe
Assistant Attorney General
615 E. 13th Street
Kansas City, Missouri 64106

and

Gary L. Gardner, Esq. &
James W. Fletcher, Esq.
1305 Locust - Suite 202
Kansas City, Missouri 64106

Attorneys for Respondent
William Brown.

Office-Supreme Court, U.S.
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MOTION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS

Comes now William Brown, respondent herein, by and through his court-appointed attorney, and moves this Honorable Court for leave to file his Memorandum Opposing Certiorari without prepayment of costs, if any, and to proceed in forma pauperis herein pursuant to Rule 46. Respondent sought from the Circuit Court of Jackson County, Missouri, the trial court below, leave to perfect his appeal to the Missouri Court of Appeals, Western District, in forma pauperis, and such leave was granted.

Respectfully submitted,

STANLEY AND MORRIS, P.C.

By

Stanley L. Morris (Counsel of Record)
Mo. Bar Enrollment No. 21401
403 Plaza Center Building
800 West 47th Street
Kansas City, Missouri 64112
816 531-3100

Attorneys for Respondent
William Brown.

CERTIFICATE OF MAILING

I hereby certify that one copy of the foregoing Motion For Leave To Proceed In Forma Pauperis has been deposited in the U.S. Mail, first class postage prepaid, on this 6 day of March, 1981, to: Philip M. Koppe, Assistant Attorney General, 615 E. 13th Street, Kansas City, Missouri 64106; and to: Gary L. Gardner and James W. Fletcher, 1305 Locust, Suite 202, Kansas City, Missouri 64106.

Attorneys for Respondent
William Brown.